

**STATE OF CONNECTICUT
CONNECTICUT BOARD OF EXAMINERS FOR EMBALMERS AND
FUNERAL DIRECTORS**

Monica Hammie-Richardson, Embalmer
101 West Gibbs Street
New Haven, CT 06511

Petition No. 2001-0628-030-008

MEMORANDUM OF DECISION
Procedural Background

On June 28, 2001, the Department of Public Health ("the Department") presented the Connecticut Board of Examiners for Embalmers and Funeral Directors ("Board") with a Statement of Charges ("the Charges") and a Motion for Summary Suspension brought against Monica Hammie-Richardson, ("respondent"), who holds Connecticut embalmer license number 002428. Dept. Exh. A. The Charges, Motion for Summary Suspension, along with the Notice of Hearing, were served on respondent, by State Marshal on June 29, 2001. The Notice of Hearing notified the parties that the hearing was scheduled for July 9, 2001. The Motion for Summary Suspension was based on the Charges, affidavits and other related documents and the Department's information and belief that the continued practice of Monica Hammie- Richardson represented a clear and immediate danger to the public health and safety. The Charges allege that respondent violated *Conn. Gen. Stat.* § 20-227. Board Exh.1.

On June 28, 2001, the Board granted the Department's motion and ordered respondent's license summarily suspended, pending a final determination by the Board regarding allegations contained in the Charges. Respondent was also ordered to surrender her license to the Board. Dept. Exh. C.

On July 6, 2001, respondent requested a continuance of the hearing scheduled for July 9, 2001. On July 9, 2001, the request for continuance was granted and the hearing was rescheduled for September 11, 2001.

On August 22, 2001, filed a Motion to Deem Allegations Admitted. Dept. Exh. B. On August 30, 2001, respondent answered the Charges and requested that the Department's Motion to Deem Allegations Admitted be denied. Resp. Exhs. 1, 2.

On September 10, 2001, respondent submitted a motion to vacate respondent's summary suspension of her embalmer's license. Resp. Exh. 4.

On September 11, 2001, the Board held an administrative hearing to adjudicate respondent's case. William M. Bloss, Esq. represented respondent. Ellen Shanley, Esq. represented the Department. At the hearing, the Board denied the Department's Motion to Deem Allegations Admitted. The hearing was abruptly interrupted when the Governor ordered the closing of state offices as a result of the bombing of the New York Trade Center. Tr. 9/11/01, pp. 19, 26-27.

On October 3, 2001, the Board rescheduled the hearing for November 13, 2001. Respondent requested a continuance, which was granted. The hearing was resumed on January 15, 2002. William M. Bloss, Esq. represented respondent. Ellen Shanley, Esq., represented the Department. The Board conducted the hearing in accordance with *Conn. Gen. Stat.* Chapter 54 and the Regulations of Connecticut State Agencies ("the Regulations") § 19a-9a-1, *et seq.* At the end of the hearing, the Board voted to deny the respondent's motion to vacate respondent's summary suspension. All Board members involved in this decision attest that they have either heard the case or read the record in its entirety. This decision is based entirely on the record.

Allegations and Answer

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 002428. Respondent admits this allegation. Resp. Exh. 1; Tr. 9/11/01, pp.22-23; Tr. 1/15/02, p. 96.
2. In paragraph 2 of the Charges, the Department alleges that respondent works as an embalmer at the Wade Funeral Home, Inc. Respondent denies this allegation. Resp. Exhs. 1, 3; Tr. 9/11/01, p. 17.
3. In paragraph 3 of the Charges, the Department alleges that the Wade Funeral Home inspection certificate to operate as a funeral home expired in June 2000. Respondent admits this allegation. Resp. Exhs. 1, 3.
4. In paragraph 4 of the Charges, the Department alleges that respondent recently directed a funeral at the Wade Funeral Home. Respondent admits this allegation. Resp. Exh. 1; Tr. 1/15/02, pp. 17, 122, 129-130.

5. In paragraph 4 [sic] of the Charges, the Department alleges that on or about June 25, 2001, the remains of five (5) human decedents were discovered stored in the garage of the Wade Funeral Home. The Department also alleges that the remains were not disposed of in a timely manner and that the remains were in varying states of decomposition. Respondent admits this allegation. Resp. Exhs. 1, 3, 15-17; Tr. 1/15/02, pp. 73, 85, 123.
6. In paragraph 5 [sic] of the Charges, the Department alleges that dirty and unsanitary conditions existed at the Wade Funeral Home. Such conditions included, but were not limited to, dirt and red-colored residue found on the instruments, embalming machine, sheets and sink; improperly disposed of waste; ceiling, floor and walls in disrepair; and remains of the decedents not properly stored. Respondent admits this allegation. Resp. Exhs. 1, 3, Tr. 1/15/02, pp. 105-106.
7. In paragraph 6 [sic] of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to *Conn. Gen. Stat.* § 20-227. Respondent denies this allegation. Resp. Exhs. 1, 3; Tr. 1/15/02, pp. 136-143.

Findings of Fact

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 002428. Dept. Exh. A, Resp. Exh. 1.
2. Respondent worked as a licensed embalmer at the Wade Funeral Home, Inc. from February 5, 2001 until July 31, 2001, and was hired as a funeral service licensee and branch administrator.¹ As the holder of an embalmer's license, respondent provided funeral directing services, which she was only authorized to do by virtue of her embalmer's license; therefore, she worked as an embalmer, despite the job title her former employer used. In her June 14, 2001 letter to her former employer, respondent also referred to herself as a licensed embalmer and funeral director, and expressed concern about how the discovery of the bodies in the garage could negatively impact her embalmer's license. Dept. Exh. A, E; Resp. Exhs. 3, 5; Tr. 1/15/02, pp. 50, 77-78, 132.
3. On or after May 20, 2001, respondent made arrangements for and directed several funerals at her former employer's request. Resp. Exh. 1; Tr. 1/15/02, pp. 107-109; 113-114, 125-128.

¹ Given the various coextensive obligations of funeral directors and embalmers in the state, it is not material to the Board's decision on the facts of this case whether respondent actually "worked" at Wade Funeral as an embalmer or funeral director.

4. On or about June 1, 2001, respondent discovered the remains of two (2) bodies in cremation boxes stacked in the garage of the Wade Funeral Home. After the bodies were discovered, respondent did not dispose of the remains in a timely manner; rather, respondent made unsuccessful attempts to identify the bodies she discovered. Respondent also contacted various individuals, seeking their advice regarding how to handle the situation. Dept. Exhs. D, E; Resp. Exhs. 1, 3, 15, 17; Tr. 1/15/02, pp. 70-77, 79-83, 90-95, 115-116, 118-119, 123, 133-141.
5. On or about June 14, 2001, respondent discovered that the funeral home's inspection certificate to operate as a funeral home had expired, almost a year earlier, in June 2000. Although respondent subsequently requested and received from her former employer two checks to renew the funeral home's expired inspection certificate for years 2000-2001 and 2001-2002, the funeral home's inspection certificate was not renewed. Resp. Exh 1; Tr. 1/15/02, pp. 77; Tr. 1/15/02, pp. 78, 121-123, 125-128.
6. After June 14, 2001, respondent directed at least two more funerals. Tr. 1/15/02, pp. 126-128, 135.
7. On or about June 25, 2001, the remains of five (5) bodies (including the two bodies respondent previously found) were discovered, in varying stages of decomposition, stored in the same garage of the Wade Funeral Home. Dept. Exhs. C, D; Resp. Exhs. 1, 3, 15-17; Tr. 1/15/02, pp. 70-77, 80-86, 96, 123, 133-135, 137-138.
8. Dirty and unsanitary conditions existed in the embalming room in the Wade Funeral Home. Such conditions included, but were not limited to, dirt and red-colored residue found on the instruments, embalming machine, sheets and sink; improperly disposed of waste; ceiling, floor and walls in disrepair. Dept. Exhs. C, F; Resp. Exhs. 1, 3, 11; Tr. 1/15/02, pp. 104-110.
9. There is insufficient evidence to establish that respondent was responsible for causing or was aware of the unsanitary conditions in the embalming room. Tr. 1/15/02, p.106.

Discussion and Conclusions of Law

Section 20-212 of the Connecticut General Statutes provides in pertinent part, that: "[n]o person, except a licensed embalmer, ... shall enter, engage in, carry on or manage for another the business of caring for preserving or disposing of dead human bodies, . . . ; nor shall any person be employed to removed a dead human body, except a licensed embalmer,"

Section 20-222(a) of the Connecticut General Statutes provides in pertinent part, that: “[n]o person, firm, partnership or corporation shall enter into, engage in, or carry on a funeral service business unless an inspection certificate has been issued by the department for each place of business. . . Each holder of an inspection certificate shall, annually, on or before July first, submit in writing to the Department of Public Health an application for renewal of such certificate together with a fee of one hundred fifty dollars . . .”

Section 20-223 of the Connecticut General Statutes provides in pertinent part, that: “[a]ny embalmer’s license issued by the Department of Public Health shall entitle the holder thereof to act as funeral director or embalmer, provided owners of establishments operating a funeral service business shall comply with the provisions of section 20-222.”

Section 20-227 of the Connecticut General Statutes provides in pertinent part, that: “[t]he Department of Public Health may refuse to grant a license or inspection certificate or the board may take any actions set forth in section 19a-17 against a licensee, registrant or holder of an inspection certificate if it finds the existence of any of the following grounds: . . . (2) violation of the statutes or regulations of said department relative to the business of embalming or funeral directing in this state; . . . (4) incompetency, negligence or misconduct in the carrying on or such business or profession . . .”

Section 19a-17 of the Connecticut General Statutes provides in pertinent part, that certain Boards, including this Board, “may take any of the following actions, singly or in combination . . . (2) Suspend a practitioner’s license or permit; (3) Censure a practitioner or permittee . . .”

The Department bears the burden of proof by a preponderance of the evidence. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S. Ct. 999, reh’g denied, 451 U.S. 933 (1981); *Bender v. Clark*, 744 F. 2d 1424 (10th Cir. 1984); *Sea Island Broadcasting Corp. v. F.C.C.*, 627 F. 2d 240, 243 (D.C. Cir. 1980); all as cited in *Bridgeport Ambulance Service, Inc., v. Connecticut Dept. of Health Services*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995).

The Department sustained its burden of proof with respect to all of the allegations in the Charges, except the allegations contained in paragraph 5 [sic]. Specifically, the Department alleged that the respondent worked as a licensed embalmer at the Wade

Funeral Home from February 5, 2001 until July 31, 2001. At all times relevant to the Charges, respondent was the holder of Connecticut embalmer license number 002428. FF 1. The holder of an embalmer's license is also authorized to act as a funeral director or embalmer. As such, respondent was licensed to manage the funeral home, as well as provide embalming services and arrange and direct funerals. Respondent admitted that in Wade's absence, she provided funeral directing services for the funeral home, in addition to the performance of administrative duties for which she was hired. FF 2-3. Moreover, respondent made arrangements for and directed several funerals for the funeral home even after she became aware that the funeral inspection certificate had expired. Such conduct violates *Conn. Gen. Stat. § 20-222(a)*. FF 5-6.

Furthermore, operating a funeral home without a funeral inspection certificate is a violation of *Conn. Gen. Stats. §§ 20-223 and 20-227(2)*. As a licensee, respondent was responsible for ensuring that the funeral home was licensed. Also, as a licensee and funeral home director, respondent should have also known that an expired funeral inspection certificate is not automatically renewed and/or reinstated after its expiration date. The certificate expired in June 2000. On June 14, 2001, respondent learned that the inspection certificate had expired. FF 5. Respondent violated the applicable standards of practice and thus *Conn. Gen. Stat. § 20-227(4)* when she continued to operate the funeral home without confirming that the funeral inspection certificate had been renewed.

The Board also finds that respondent violated the standards of practice applicable to licensed embalmers and funeral directors in Connecticut when she failed to dispose of the corpses in the garage within a reasonable period of time after respondent discovered them stored in the garage. FF 5. As a licensed embalmer, respondent was responsible for the timely disposal of the human remains. On or about June 1, 2001, respondent discovered the remains of two (2) corpses. On or about June 25, 2001, three (3) more corpses were discovered in the Wade funeral home garage. FF 7. Respondent failed at any time to report her initial discovery of two corpses to the proper authorities. Instead, respondent made unsuccessful attempts to identify the bodies and contacted other individuals for advice. FF 4. The Board finds that as a licensee, respondent should have immediately contacted the police, see *Conn. Gen. Stat. § 7-64*; and the state's medical examiner for the proper disposal of the bodies. Respondent's failure to notify the police

and dispose of the corpses promptly constitutes incompetent and negligent conduct. Such conduct violates *Conn. Gen. Stat.* § 20-227(4).

With respect to the Charges that dirty and unsanitary conditions existed at the Wade Funeral Home, the Board finds that while such conditions did exist, the Board could not find by a majority vote that respondent was aware of such conditions. FF 8-9. Also, the Board finds that to the extent that the Department did not provide any evidence that respondent was directly responsible for the conditions, which existed at the funeral home, the Department did not sustain its burden of proof on this charge.

Based on the foregoing, respondent's license is subject to disciplinary action pursuant to *Conn. Gen. Stat.* § 20-227 for the allegations contained in paragraphs 1- 4, which were proven by a preponderance of the evidence. Accordingly, the Board concludes that there is sufficient basis upon which to issue the following order.

Order

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by Conn. Gen. Stats. §§ 19a-11 and 20-209a, the Board orders the following in the case of Monica Hammie-Richardson, Petition number 2001-0628-030-008, who holds Connecticut embalmer license number 002428:

1. Respondent's license number 002428 to practice as an embalmer in the State of Connecticut is suspended for a period of 90 days following the date the Order is signed.
2. A letter of censure will be placed in respondent's licensure file.

Connecticut Board of Examiners for
Embalmers and Funeral Directors

04-30-08
Date

Celia Pinzi, Chairperson
By: Celia Pinzi, Chairperson